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CONFLICT OF INTEREST CODE

OF THE

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

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Conflict of interests (Public
office)

EXECUTIVE COMMITTEE AGENDA
Thursday, July 6, 1978

SUPPLEMENTAL ATTACHMENT #7

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SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

SECTION 100. Purpose. Pursuant to the provisions of Government Code Sections 87300, et. seq., the Southern California Association of Governments (hereinafter referred to as SCAG), hereby adopts the following Conflict of Interest Code. The provisions of this Code are additional to Government Code Section 87100 and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions* contained in Chapter 2 of Title 9 of the Government Code (Sections 82000 to 82050 inclusive) of said Act and regulations adopted by the Fair Political Practices Commission are incorporated herein and this Code shall be interpreted in a manner consistent therewith. It is the purpose of this Code to provide for the disclosure of assets and income of designated employees which may be materially affected by their official actions, and, in appropriate circumstances to provide that designated employees should be disqualified from acting in order that conflicts of interest may be avoided.

SECTION 200. Designated Positions. The positions listed on Exhibit "A" are designated positions. Officers and employees holding those positions are designated employees

*A list of definitions is contained in Exhibit C of this Code.

and are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest.

SECTION 300. Disclosure Statements. Designated positions shall be assigned to one or more of the disclosure categories set forth on Exhibit "B". Each designated employee or official shall file an annual statement disclosing that employee's or official's interest in investments, real property, and income, designated as reportable under the category to which the employee's or official's position is assigned on Exhibit "B".

SECTION 400. Place and Time of Filing.

(a) All designated employees or officials required to submit a statement of financial interests shall file the original with the Executive Director's office.

(b) The Executive Directors office shall make and retain a copy of the statement and forward the original to the code reviewing body of SCAG.

(c) A designated employee or official required to submit an initial statement of financial interest shall submit the statement within 30 days after the effective date of this Code.

(d) Personnel Merit System employees appointed, promoted or transfered to designated positions shall file statements within 30 days after the effective date thereof.

(e) All other persons appointed, promoted or transferred to designated positions shall file initial statements not less than 10 days before assuming office unless an earlier assumption of office is required by emergency circumstances, in which case the statement shall be filed within 30 days thereafter. (G.C. §87302(G))

(f) Annual statements shall be filed during the months of July by all designated employees or officials. Such statements shall cover the period of the preceding calendar year.

(g) The first statement of financial interests shall report the designated employee's or official's reportable investments and interests in real property as those investments and interests in real property exist of the time of filing. Income is not reportable on the first statement. No period of time is covered by the first statement. (G.C. §87201, 87202)

(h) A designated employee required to file a statement of financial interest with any other agency, which is within the same territorial jurisdiction and whose disclosure requirements are identical, may comply with the provisions of this Code by filing a duplicate copy of the statement filed with the other agency, in lieu of an entirely separate statement.

(i) The members of the Executive Committee are all required to be elected public officials and, therefore, are required pursuant to the provisions of the Political Reform Act to file disclosure statements directly with the FPPC relating to the elected position they hold. For that reason it is appropriate that they file supplementary disclosure statements pursuant to the requirements of this Code relating to the SCAG geographic area. Members of the Executive Committee shall therefore file with the Executive Directors office a duplicate copy of their statements filed with the FPPC relating to their elected positions along with a supplementary disclosure statement reporting those interests in accordance with Exhibits "A" and "B" which were not included in their statements relating to their elected positions. In the event there are no required interests to report, members of the Executive Committee need only file a duplicate copy of their statement filed with the FPPC along with a declaration that there are no further interests located within and subject to the jurisdiction of SCAG to report.

SECTION 500. Contents of Disclosure Statements.

Disclosure statements shall be made on forms supplied by the Executive Director's office and shall contain the following information:

(a) Contents of Investment and Real Property Reports:

When an investment, or an interest in real property, is required to be reported, the statement shall contain:

(1) A statement of the nature of the investment or interest;

(2) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

(3) The address or other precise location of the real property within the jurisdiction of SCAG.

(4) A statement whether the fair market value of the investment, or interest in real property, exceeds ten thousand dollars (\$10,000), and whether it exceeds one hundred thousand dollars (\$100,000). This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer.

(5) In the case of an investment which constitutes 50 percent or more of the ownership interest in a business entity, disclosure of the investments and interests in real property of the business entity.

(b) Contents of Personal Income Reports:

When personal income is required to be reported, the statement shall contain:

(1) The name and address of each source of income aggregating two hundred and fifty dollars (\$250) or more

in value, or twenty-five dollars (\$25) or more in value if the income was a gift, and a general description of the business activity, if any of each source;

(2) A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1,000), and whether it was greater than ten thousand dollars (\$10,000);

(3) A description of the consideration, if any, for which the income was received;

(4) In the case of a gift, the amount or value and the date on which the gift was received.

(c) Contents of Business Entity Reports:

When income or a business entity, including income of a sole proprietorship, is required to be reported the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity;

(2) In the case of a business entity which provides legal brokerage services, the name of every person from whom the business entity received payments must be disclosed if the filer's pro rata share of fees from such person was equal to or greater than \$1,000 during the reporting period;

(3) In the case of a business entity, not covered by subparagraph (2) of this Section, the name of every person from whom the business entity received payments if

the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during the reporting period.

(4) Income of a business entity shall not be reported unless the filer or his spouse owns, directly, indirectly, or beneficially, a 10% interest or greater. In addition, for purposes of subparagraphs 2 and 3 of this section, the disclosure of persons who are clients or customers of business entity is required only if it is reasonably foreseeable that the client or customer may be materially affected by the decisions of the filer.

If any otherwise reportable investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

SECTION 600. Disqualification. Designated employees as officials shall disqualify themselves from making or participating in the making or in any way attempting to use their official position to influence a governmental decision when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally on:

(a) Any reportable investment or interest in real property.

(b) Any reportable source of income, other than loans by a commercial lending institution in the regular course of business, aggregating two hundred fifty dollars (\$250) or more in value received within twelve months prior to the time the decision is made;

(c) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

Provided always, no designated employee as official shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made.

A designated employee required to disqualify himself or herself shall notify his or her supervisor in writing. This notice shall be forwarded to the Executive Director, who shall record the employee's disqualification. Upon receipt of such statement, the supervisor shall immediately reassign the matter to another employee.

SECTION 700. Effective Date of Code.

This conflict of interest code shall become effective 30 days after approval by the Fair Political Practices Commission.

EXHBIT "A"

Designated Employees and Disclosure Categories

The following positions entail the making or participation in the making of decisions which may foreseeably have a material effect on financial interests:

<u>Designated Position</u>	<u>Disclosure Categories</u>
- Executive Committee Members and Alternates.....	1
- Executive Director.....	1
- Deputy Executive Director.....	1
- Director of Transportation.....	1
- Director of Planning.....	1
- Assistant Director of Transportation.....	2
- Assistant Director of Planning.....	2
- Assistant Director of Administration and Finance.....	3
- Assistant Director of Community and Government Liason.....	3

EXHBIT "B"

Categories of Reportable Economic Interests

Designated persons in Category "1" must report:

All investments, interests in real property and income, and any business entity in which the person is a director, officer, partner, trustee, employee, or holds any position of management. Said financial interests are reportable only if located within and subject to the jurisdiction of SCAG or if the business entity is doing business or planning to do business in an area subject to the jurisdiction of SCAG or has done business within an area subject to the jurisdiction of SCAG at any time during the two years prior to the filing of the statement.

Designated persons in Group "2" must report:

- A. All investments in real property located within or subject to the jurisdiction of SCAG.
- B. Investments in any business entity which, within the last two years, has contracted, or in the future foreseeably may contract with SCAG, the State of California or the U.S. Government to provide services, supplies or materials relating to or in connection with the regional planning functions of SCAG.

- C. Income from any source which, within the last two years has contracted, or in the future foreseeably may contract with SCAG, the State of California or the U.S. Government to provide services, supplies or materials relating to or in connection with the regional planning functions of SCAG.
- D. His or her status as a director, officer, partner, trustee, employee, or holder of a position of management in any business entity, which within the last two years, has contracted, or in the future foreseeably may contract with SCAG, the State of California or the U.S. Government to provide services, supplies or materials relating to or in connection with the regional planning functions of SCAG.

EXHIBIT "C"

DEFINITIONS:

1. "Business entity": Any organization or enterprise operated for profit, including but not limited to a proprietorship, firm, business trust, joint venture, syndicate, corporation or association.

2. "Designated employee": Any officer, employee, or consultant of SCAG whose position is designated in Exhibit "A" of this Code. Exhibit "A" sets forth those positions which entail the making or participation in the making of decisions which may foreseeably have a material financial effect on any financial interest.

3. "Financial interest": A designated employee has a "financial interest" in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally or any significant segment thereof, on:

a. Any business entity in which the designated employee has a direct or indirect investment worth more than \$1,000;

b. Any real property in which the designated employee has a direct or indirect interest worth more than \$1,000;

c. Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250.00 or more in value received by or promised to the designated employee within twelve months prior to the time when the decision is made; or

d. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management;

e. "Indirect investment or interest" as used to define financial interest means any investment or interest owned by the spouse or dependent child of the designated employee, held or owned by an agent on behalf of the designated employee, held or owned by any business entity controlled by the designated employee or by a trust in which the designated employee has a substantial interest. A business entity is controlled by a designated employee if the designated employee, his or her agents, spouse and dependent children hold more than 50 percent of the ownership interest in the entity. A designated employee has a substantial interest in a trust when the designated employee, his or her spouse and dependent children have a present or future interest worth more than \$1,000.

4. "Income":

a. "Income" means, except as provided in subsection (b), income of any nature from any source located within the jurisdiction of SCAG, including but not limited to any salary, wage, advance, payment, dividend, interest, rent, capital gain, return of capital, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness, discount in the price of anything of value unless the discount is available to members of the public without regard to official status, rebate, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income of an individual also includes a pro rata share or any income of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a 10% interest or greater.

b. "Income" does not include:

(1) Income from a source which is a former employer if: All income from the employer was received or accrued to the designated employee prior to the time he or she became a designated employee; the income was received in the normal course of the previous employment; and there was no expectation by the designated employee at the time he or she assumed a designated position of renewed employment with the former employer;

(2) Campaign contributions required to be reported under Chapter 4 of the Political Reform Act of 1974;

(3) Salary and reimbursement for expenses or per diem received from a state or local government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization;

(4) Gifts of informational material, such as books, pamphlets, reports, calendars or periodicals;

(5) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes;

(6) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered income if the donor is acting as an agent or intermediary for any person not covered by this paragraph;

(7) Any devise or inheritance;

(8) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or

other debt instrument issued by any government or government agency;

(9) Dividends, interest or any other return on a security which is registered with the Securities & Exchange Commission of the United States Government.

5. "Interest in real property" includes any leasehold, beneficial or ownership interest or option to acquire such an interest in real property within the jurisdiction of SCAG if the fair market value of the interest is greater than \$1,000. Interests in real property of an individual include a pro rata share of interests in real property of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a 10% interest or greater.

6. "Investment": Any financial interest in or security security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property within the jurisdiction, or does business or plans to do business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this Code. No asset shall be deemed an investment unless its fair market value exceeds \$1,000. "Investment" does not include a time

or demand deposit in a financial institution, shares in a credit union, any insurance policy, or bond or other debt instrument issued by any government or government agency. Investments of an individual include a pro rata share of investments of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a 10% interest or greater.

7. "Jurisdiction": Means the geographical area within the SCAG'S boundaries, except that real property shall be deemed to be within the "jurisdiction" of SCAG if it is located within or not more than two miles outside the boundaries of SCAG, or within two miles of any land owned or used by SCAG.

8. "Making Governmental Decisions": A designated employee "makes a governmental decision", except as provided in Definition 10(b)1 herein, when he or she, acting within the authority of his or her office:

- a. Votes on a matter;
- b. Appoints a person;
- c. Obligates or commits SCAG to any course of action;
- d. Enters into any contractual agreement on behalf of SCAG;
- e. Determines not to act, within the meaning of subparagraphs a, b, c and d, unless such determination

is made because of his or her financial interest. When the determination not to act occurs because of his or her financial interest. When the determination not to act occurs because of his or her financial interest, the designated employee's determination must be accompanied by disclosure of the financial interest, made part of SCAG's official record or made in writing to the designated employee's supervisor, appointing power or any other person specified in this Code.

9. "Material Financial Effect":

a. The financial effect of a governmental decision on a financial interest of a designated employee is material if, at the time the designated employee makes, or participates in making, the decision, in light of all the circumstances and facts known at the time of the decision, the designated employee knows or has reason to know that the existence of the financial interest might interfere with his or her performance of duties in an impartial manner free from bias.

Provided that, the making or participation in the making of a governmental decision by a contract consultant or by a person retained to provide information, advice, recommendation or counsel has no material financial effect on a business entity or source of income in which such consultant or person retained is an officer, employee, sole

proprietor or partner, if the only financial effects of the decision are the modification, perpetuation or renewal of the contractual or retainer agreement and/or the opportunity to bid competitively upon a project or contract.

In determining the existence of a material effect upon a financial interest, consideration should be given, but not be limited to, an analysis of the following factors:

(1) In the case of a business entity in which the designated employee has a direct or indirect investment worth more than one thousand dollars (\$1,000), or in the case of a designated employee who is a director, officer, partner, trustee, employee, or holds any position of management in a business entity:

(A) Whether the effect of the decision will be to increase or decrease the annualized gross revenue of the business entity by one percent or more or the annual net income of the business entity by .5 percent or more;

(B) Whether the effect of the decision will be to increase or decrease the assets or liabilities of the business entity by \$50,000 or more, or by .5 percent of its current assets or liabilities, whichever is less.

(2) In the case of real property within the jurisdiction, in which the designated employee has a direct or

indirect interest worth more than one thousand dollars (\$1,000):

(A) Whether the effect of the decision will be to increase the income-producing potential of the real property by \$100 or more or by five percent, whichever is less;

(B) Whether the effect of the decision will be to increase the fair market value of the real property by \$1,000 or more or by .5 percent, whichever is greater.

(3) In the case of a source of income or a designated employee:

(A) The decision will affect the source of income in the manner described in paragraph (1) above;

(B) Whether the governmental decision will directly affect the amount of income to be received by the designated employee;

(C) Whether there is a nexus between the governmental decision and the purpose for which the designated employee receives income.

b. The specific dollar or percentage amounts set forth above do not constitute either absolute minimum or minimum levels, but are merely intended to provide guidance and should be considered along with other relevant factors in determining whether a financial interest may interfere with

the designated employee's exercise of his or her duties in rendering a decision.

10. "Participating in the Making of Governmental Decisions":

a. A designated employee "participates in the making of a governmental decision", except as provided in subsection b(1) of this definition, when he or she, acting within the authority of his or her office:

(1) Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or

(2) Advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:

(A) Conducting research or making any investigation which requires the exercise of judgment on the part of the designated employee and the purpose of which is to influence the decision; or

(B) Preparing or presenting any report, analysis, or opinion, orally or in writing, which requires the exercise of judgment on the part of the designated employee and the purpose of which is to influence the decision.

b. "Making" or "participating in the making" of a governmental decision shall not include:

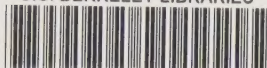
(1) Actions of designated employees which are solely ministerial, secretarial, manual or clerical;

(2) Appearances by a designated employee as a member of the general public before SCAG in the course of its prescribed governmental function to represent himself/herself on matters related solely to his or her personal interests; or

(3) Actions by designated employees, or employee representatives relating to their compensation or the terms or conditions of their employment or contract.

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